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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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11 ARDENTE INC.,)
12 Plaintiff(s),) No. C07-4479 MHP (BZ)
13 v.)
14 RICHARD J. SHANLEY, et al.,) **SETTLEMENT CONFERENCE**
15 Defendant(s).) **ORDER - PATENT CASE**
16)
17 _____)

18 The above matter was referred to me for settlement
19 purposes.

20 On February 24, 2010, I conducted a telephonic hearing at
21 which both sides were represented by counsel. By agreement
22 of the parties and good cause appearing, **IT IS HEREBY ORDERED**
23 that no later than **March 1, 2010**, Mr. and Mrs. Ardente and Mr.
24 Shanley shall meet in person, outside the presence of counsel,
25 to discuss a resolution of this dispute. The Court's staff
26 mediator Daniel Bowling, may attend. The principals are urged
27 to explore a creative, business resolution of their dispute.
28 If the case settles, the parties are to notify the Court

1 immediately.

2 Each party shall provide the other informally,
3 expeditiously and pursuant to Federal Rule of Evidence 408
4 with all information reasonably needed to further the progress
5 of the settlement negotiations. Confidential information may
6 be provided subject to a protective order.

7 If there is no settlement, it is further **ORDERED** that a
8 Settlement Conference is scheduled for **Wednesday, March 24,**
9 **2010, at 9:00 a.m.,** in Courtroom G, 15th Floor, Federal
10 Building, 450 Golden Gate Avenue, San Francisco, California
11 94102. Counsel who will try the case shall appear at the
12 Settlement Conference with the party principals who met
13 earlier. The negotiations will be principally among the party
14 principals in my presence.

15 Each party shall prepare a Settlement Conference
16 Statement, which must be served on opposing counsel and lodged
17 (not faxed) with my chambers no later than seven calendar days
18 prior to the conference. The Statement shall **not** be filed
19 with the Clerk of the Court. The Statement **may** be submitted
20 on CD-ROM with hypertext links to exhibits. Otherwise, the
21 portion of exhibits on which the party relies **shall** be
22 highlighted. The Settlement Conference Statement shall not
23 exceed ten pages of text and twenty pages of exhibits and
24 shall include the following:

- 25 1. A brief statement of the facts of the case.
- 26 2. A brief statement of the claims and defenses
27 including, but not limited to, statutory or other grounds upon
28 which the claims are founded.

1 3. A summary of any related litigation.

2 4. A summary of the proceedings to date and any pending
3 motions.

4 5. An estimate of the cost and time to be expended for
5 further discovery, pretrial and trial.

6 6. The relief sought, including an itemization of
7 damages.

8 7. The parties' position on settlement, including
9 present demands and offers and a history of past settlement
10 discussions. The Court's time can best be used to assist the
11 parties in completing their negotiations, not in starting
12 them. So there is no confusion about the parties' settlement
13 position, plaintiff must serve a demand in writing no later
14 than fourteen days before the conference and defendant must
15 respond in writing no later than eight days before the
16 conference. The parties are urged to carefully evaluate their
17 case before taking a settlement position since extreme
18 positions hinder the settlement process.

19 Along with the Statement each party shall lodge with the
20 court a document of no more than three pages containing a
21 **candid** evaluation of the parties' likelihood of prevailing on
22 the claims and defenses, and any other information that party
23 wishes not to share with opposing counsel. The more candid
24 the parties are, the more productive the conference will be.
25 This document shall not be served on opposing counsel.


26 It is not unusual for conferences to last three or more
27 hours. Parties are encouraged to participate and frankly
28 discuss their case. Statements they make during the

1 conference will not be admissible at trial in the event the
2 case does not settle. The parties should be prepared to
3 discuss such issues as:

- 4 1. Their settlement objectives.
- 5 2. Any impediments to settlement they perceive.
- 6 3. Whether they have enough information to discuss
7 settlement. If not, what additional information is needed.
- 8 4. The possibility of a creative resolution of the
9 dispute.

10 The parties shall notify chambers immediately if this
11 case settles prior to the date set for settlement conference.
12 Counsel shall provide a copy of this order to each party who
13 will participate in the conference.

14 Dated: March 1, 2010

15 
16 Bernard Zimmerman
United States Magistrate Judge

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